United Nations A/AC.109/2002/16

General Assembly

Distr.: General
21 May 2002
English
Original: English/Spanish

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)

Working paper prepared by the Secretariat*

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* The document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that, if a report is submitted late, the reason should be included in a footnote to the document.

02-39384 (E) 050602 060602

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I. General

1. The Falkland Islands (Malvinas)[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory comprises two large islands, known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square kilometres (4,700 square miles). The Territory is situated in the South Atlantic, about 770 kilometres north-east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 kilometres east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate Territory; the Governor of the Falkland Islands (Malvinas) acts as Commissioner for South Georgia and the South Sandwich Islands. According to the results of a census conducted in April 2001, the population of the Territory is 2,391 (not including an estimated 112 residents temporarily absent and 534 military personnel), up from 2,221 in 1996.

II. Constitutional and political developments

A. Constitution and Government

2. Detailed information on the Constitution and Government of the Falkland Islands (Malvinas) is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

3. On 22 November 2001 general elections were held for eight members of the Legislative Council, five from the Stanley constituency and three from Camp (the countryside outside of Stanley), for a four-year term. On the same day, in a non-binding referendum, the islanders voted against changing the two-constituency system under which the Councillors were elected to a single constituency system.

B. Political developments

4. On 10 June 2001, the Government of Argentina issued the following press communiqué:

"On 10 June, the Day of Affirmation of Argentine Rights over the Malvinas Islands and the Antarctic Sector, the Argentine Nation commemorates the creation of the Political and Military Command for the Malvinas Islands and adjacent islands as far as Cape Horn in the Atlantic Ocean. The Command was created in 1829 by a decree issued by Brigadier General Martín Rodríguez, Acting Governor of Buenos Aires Province.

"Since its inception as an independent nation, the Argentine Republic has demonstrated, through different acts of Government, its firm political will to exercise effective sovereignty over the southern territories and maritime spaces that it inherited from Spain.

"This effective exercise of sovereignty was interrupted on 3 January 1833, when British forces occupied the Malvinas Islands, expelling the Argentine population and authorities who had settled there. Since then, Argentine citizens have been prevented from freely settling or owning land in those territories.

"The people and Government of Argentina never consented to that act of force, and today, as in the past, they confirm their sustained unwavering determination to regain and exercise their sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime spaces, through the peaceful path of diplomatic negotiations and in accordance with the many appeals made by the international community.

"Argentina's claim has traditionally been supported by the countries of our region and by major international organizations, including the General Assembly of the United Nations and the General Assembly of the Organization of American States. These forums have repeatedly called on the Governments of the Argentine Republic and the United Kingdom to resume negotiations with a view to resolving the sovereignty issue in a conclusive and peaceful manner.

"On this important date, the Argentine Government reiterates that it is always willing to engage in dialogue with the United Kingdom so that negotiations can be resumed with a view to settling at an early date and in a just and

conclusive manner the unresolved dispute regarding sovereignty."

5. On 25 and 26 June 2001, the delegations of Argentina and the United Kingdom met in Buenos Aires in accordance with the exchange of notes of 8 and 20 June 2001 and under the formula on sovereignty. The two delegations exchanged views on coordinating preparatory activities for their presentations before the Commission on the Limits of the Continental Shelf, established by the United Nations Convention on the Law of the Sea. Both delegations shared information about their planned activities with regard to the external boundary of the continental shelf in the area of the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands.

6. By a letter dated 29 October 2001 addressed to the Secretary-General, the Permanent Representative of Argentina referred to the "White Paper on Partnership for Peace and Prosperity: Britain and the Overseas Territories" annexed to document A/AC.109/1999/1 and Corr. 1. In that letter the Permanent Representative announced his Government's "rejection of the above-mentioned 'White Paper' insofar as it refers to the Malvinas, South Georgia and South Sandwich Islands" (see A/56/515).

7. By a letter dated 19 November 2001 addressed to the Secretary-General, the Permanent Representatives of Argentina and the United Kingdom of Great Britain and Northern Ireland to the United Nations conveyed the text of the exchange of notes recording an understanding between their Governments to carry out a feasibility study on the clearance of landmines in the Falkland Islands (Islas Malvinas) (A/56/639, annex).

8. In a New Year's message broadcast to the Islands on BBC on 21 December 2001, the Prime Minister of the United Kingdom, Tony Blair, declared:

> "The last 12 months have demonstrated again the increasing confidence of the Falkland Islands. You have shown, by the encouragement of tourism and organic farming, for example, how well this community is working together to overcome the challenges facing you.
>
> "The new Executive Council has an important role in helping the Islands continue to meet these challenges. An important task facing it, and all who live on the Islands, is the review of your Constitution so this community can continue to develop on the strong foundation of a modern relationship with the United Kingdom.
>
> "...
>
> "Next year will mark the twentieth anniversary of the Falklands conflict. We must, of course, remember and mourn all those civilians and service personnel tragically killed during the conflict. But it is also right that we should approach this occasion in a spirit of reconciliation.
>
> "The last year saw another improvement in the relations between Britain and Argentina.
>
> "Differences remain as we continue to make clear that sovereignty over the Falklands is not open to negotiation. Our position is unchanged: the Falkland Islands are British for as long as they wish to remain so.
>
> "Yet despite these differences, I was welcomed by President de la Rúa in August, and Jack Straw and Argentine Foreign Minister Rodriguez Giavarini discussed areas of cooperation on issues such as transport links and fisheries in an atmosphere of trust and respect when they met in July. I believe that, with the British Government's continued support, you can be increasingly confident in your dealings with your neighbours.
>
> "The firmness of Britain's commitments on the security and sovereignty of the Falkland Islands and on your right to self-determination provides the basis for you to shake off the insecurity of the past, and to plan your future with certainty.
>
> ..."

9. By a letter dated 4 January 2002 addressed to the Secretary-General, the Permanent Representative of Argentina transmitted a press release issued on 3 January 2002 by his Government on the occasion of "another anniversary of the illegitimate British occupation of the Malvinas Islands" (see A/56/765 and annex).

10. In a letter dated 17 January 2002 (A/56/777) addressed to the Secretary-General, the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations referred to

and rejected the letter dated 29 October 2001 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/56/515), and restated the position of his Government regarding sovereignty over the Falkland Islands (Malvinas).

11. In a letter dated 21 January 2002 (A/56/786) addressed to the Secretary-General, the Chargé d'affaires a.i. of the Permanent Mission of the United Kingdom and Northern Ireland to the United Nations referred to the letter dated 4 January 2002 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/56/765) and restated the position of his Government regarding sovereignty over the Falkland Islands (Malvinas).

12. On 11 and 12 March 2002, the United Kingdom Secretary of State for Defence, Geoff Hoon, visited the Falkland Islands (Malvinas). During his stay he met with the Governor of the Islands and spoke with the Councillors. While in the Islands, he laid a wreath at the 1982 memorial monument.

13. The Secretary of State for Defence also visited Santiago de Chile and Buenos Aires. On 14 March, ending his visit to Argentina, the Defence Secretary said that the British Government and people believed that the twentieth anniversary of the conflict should be characterized by a spirit of reconciliation and commemoration. While in Buenos Aires, the Secretary of State for Defence met with the Argentine Minister of Defence, Horacio Jaunarena, the Minister for Foreign Affairs, International Trade and Worship, Carlos Ruckauf, and the commanders of the armed forces. He also honoured Argentines killed in the conflict. Argentine Foreign Secretary Jorge Faurie said that the Argentine Government appreciated the confidence implied in Mr. Hoon's visit to the country and also the wreath he deposited at the monument to Argentines killed in the conflict.

14. In accordance with the commitment made under the formula on sovereignty by the Government of Argentina and the United Kingdom in the joint statement of 14 July 1999, on 7 March 2002 the Planning and Building Committee of the Falkland Islands (Malvinas) approved the plan submitted by the Comisión de Familiares de Caídos en Malvinas e Islas del Atlántico Sur for a memorial at the Argentine cemetery in Darwin.

III. Mine clearance

15. On 11 October 2001, in accordance with the commitments made by the Governments of Argentina and the United Kingdom in the Action Agenda of 28 October 1998 and the joint statement of 14 July 1999 regarding their cooperation on mine clearance in the Falkland Islands (Malvinas), the two Governments exchanged notes regarding the carrying out of a feasibility study on demining in the Islands, under the formula on sovereignty and within the framework of the Ottawa Convention of 1997 on anti-personnel mines. Accordingly, on 3 and 4 December 2001, the Joint Working Group held its first meeting in Buenos Aires on the conduct of the aforementioned feasibility study. At the meeting the general objectives of the studies were discussed as well as their technical, organizational and financial aspects. Some practical measures and tasks were agreed that would be carried out with a view to advancing the preparation of the study.

16. According to the United Kingdom Government, there are 101 mine fields in the Islands, covering a total area of 20 square kilometres and containing 16,600 mines.

IV. Economic conditions

A. General

17. According to the administering Power, the pace of economic development has accelerated dramatically since 1982. In 1984, the Falkland Islands Development Corporation was formed to encourage the development of a private sector. This rapid growth resulted initially from the influx of British Government aid, but subsequently from the development of fisheries. The size of the fisheries' revenues and their subsequent investment have enabled improvements to be made in the infrastructure and the promotion of tourism and other enterprises, which will help to diversify the economy. The basic challenge is to increase economic security through diversification, including further development of tourism and diversification of agricultural production.

B. Public finance

18. The Territory's financial year runs from 1 July to 30 June. In 2000/2001, total revenue was £44 million, of which more than half (£23 million) came from fishing licences. Other sources of revenue were sales and services (£8 million), taxation (£7 million) and investment income (£6 million). During the same period, total expenditure was £47 million and Government reserves stood at £160 million, of which £90 million was in general reserve funds and the balance in special reserve funds for insurance and pension purposes.

19. The territorial Government has continued to work for improved long-term planning and budget processes in order to strengthen financial management and control systems through computerization. The recent introduction of resource accounting was expected to enable management to identify the cost of the capital employed and to keep account of the value of the public investment in equipment and infrastructure throughout its useful life. The objective is to move from a money-led to a needs-led budget.

C. Agriculture, land tenure and livestock

20. Detailed information on agriculture, land tenure and livestock is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11). A new abattoir, built to European Union standards, opened in July 2001 and will allow farmers on the Islands to export meat. The territorial Government is encouraging farmers to move towards organic status, because the Islands are specializing in production of organic meat. Subject to approval from Brussels, Falklands Islands (Malvinas) organic meat is on target to reach the United Kingdom market in 2002.

D. Fisheries

21. Squid, including Loligo and Illex, are the mainstay of the territorial fisheries and economy. In addition to the two squid species, there are a number of finfish, which include blue whiting, hake and hoki. The Fisheries Department is responsible for administering the fishery. The South Atlantic Fisheries Commission, which was established by Argentina and the United Kingdom through the joint statement of 28 November 1990, has met regularly and worked without interruption since then for the conservation of fisheries resources in that area.

22. On 14 and 15 June 2001, the South Atlantic Fisheries Commission held its 19th meeting, in London. The Argentine delegation was led by Santos Goñi, head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs, International Trade and Worship. The British delegation was led by the head of the Overseas Territories Department of the Foreign and Commonwealth Office, Alan Huckle. In a joint press statement issued at the end of the meeting, the British and Argentine delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas, contained in paragraph 2 of the joint statement issued in Madrid on 19 October 1989, applied to the meeting and its consequences. The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 17th meeting, which was held in London on 12 and 13 June 2001, and the continuing cooperation between the National Institute for Fisheries Research and Development (INIDEP) and the Imperial College. The Commission agreed to recommend the Subcommittee's proposals to both Governments. Both delegations reaffirmed the importance of ensuring the stability of fish stocks and reiterated the commitment of both Governments to the conservation of fish and squid stocks in the South-West Atlantic. They recommended that both Governments continue scientific research in order to achieve a greater understanding of the most significant offshore species in the area. They reaffirmed their support for the early warning system and acknowledged the need to carry out additional scientific work in order to improve it. The exchange of real-time data on fishing operations remained central to the operation of the system. The Commission agreed to recommend to both Governments that every effort be made to maintain a level of 40,000 metric tons of Illex spawning stock biomass at the end of the fishing season in order to ensure stock sustainability, and endorsed the recommendation of the Scientific Subcommittee that in situations of high uncertainty relating to the Illex squid fishery, there should be an increase in the frequency of data exchange between the Imperial College and INIDEP. Both delegations expressed their continued concern over the status of the Illex stock. They therefore noted with satisfaction that the early warning system had worked successfully, and

that their respective Governments had now closed the Illex fishery for the rest of the current year for the purpose of meeting the conservation target. The Commission noted the view of the Scientific Subcommittee that the declining trend in the spawning biomass of southern blue whiting seemed to have stabilized, and further noted the need to maintain a precautionary approach to this fishery with the aim of reversing the trend. Appropriate catch levels would contribute to this aim. The two delegations exchanged views on conservation measures affecting the fisheries of the South-West Atlantic. They recognized the need for further exchanges of information on these matters before and during the fishing season. They discussed ways of ensuring the relative stability of fisheries, recalling their significance. Both delegations concurred that the timely establishment of a multilateral arrangement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic. The Commission endorsed the agreement reached in the Scientific Subcommittee to continue research on the current status of hoki. Both delegations expressed their satisfaction at the practical measures being applied by their Governments to prevent poaching. The Argentine delegation reiterated the concern of the Argentine Government about the situation created by the British decisions with respect to the area described in the annex to the joint statement of 28 November 1990 and to the area west of it. It expressed the hope of the Argentine Government that the matter would be resolved. The British delegation reiterated its position.

23. Subsequently, on 29 and 30 November 2001, the South Atlantic Fisheries Commission held its 20th meeting, in Buenos Aires. The Argentine delegation was led by the head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs, International Trade and Worship, Santos Goñi. The British delegation was led by the head of the Overseas Territories Department of the Foreign and Commonwealth Office, Alan Huckle. In a joint press statement issued at the conclusion of the meeting, the British and Argentine delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas, contained in paragraph 2 of the joint statement issued in Madrid on 19 October 1989, applied to the meeting and its consequences. The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 18th meeting, which was held in Mar del Plata, Argentina, on 26 and 27 November 2001. The Commission agreed to recommend the Subcommittee's proposals to both Governments. Both delegations reiterated the commitment of their Governments to the conservation of fish and squid stocks of the South-West Atlantic. They recommended that both Governments continue scientific research. Both delegations expressed satisfaction with the functioning of the early warning system, and considered it an efficient means towards achieving the conservation objectives. They also agreed that the exchange of real-time data on fishing operations remained central to the operation of the system and endorsed the recommendation of the Scientific Subcommittee that the frequency of data exchange between the Imperial College and INIDEP be increased to twice a week during the Illex season. The Commission agreed to recommend to both Governments that every effort be made to maintain the level of 40,000 metric tons of Illex spawning stock biomass at the end of the fishing season in order to ensure stock sustainability. The Commission noted the Scientific Subcommittee's concern that the catch of southern blue whiting had again exceeded the level the Subcommittee considered to be sustainable, though the declining trend in spawning biomass of this species appeared to have stabilized. Given the need to maintain a precautionary approach to this fishery, views were exchanged within the Commission regarding ways of strengthening measures for the conservation of this species. The Commission agreed that the Scientific Subcommittee should consider additional measures for the conservation of southern blue whiting and advice as to how sustainability might be achieved. The Commission also agreed that a workshop would take place in order to discuss the design of the southern blue whiting joint survey. Both delegations concurred that the timely establishment of a multilateral arrangement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic and exchanged views in this respect. The Argentine delegation reiterated the concern of the Argentine Government about the situation created by the British decisions with respect to the area described in the annex to the joint statement of 28 November 1990 and to the area west of it. It expressed the hope of the Argentine Government that the matter would be resolved. The British delegation reiterated its position.

24. On 21 and 22 March 2002, the South Atlantic Fisheries Commission held its 21st meeting, in London. The Argentine delegation was led by Santos Goñi, head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs, International Trade and Worship. The British delegation was led by the head of the Overseas Territories Department of the Foreign and Commonwealth Office, Alan Huckle. In a joint press statement issued at the end of the meeting, the Argentine and British delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas, contained in paragraph 2 of the joint statement issued in Madrid on 19 October 1989, applied to the meeting and its consequences. The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 19th meeting, held in London on 18 and 19 March 2002. The Commission welcomed the continuing cooperation between INIDEP and the Imperial College. The Commission agreed to recommend the Subcommittee's proposals to both Governments. Both delegations reaffirmed the importance they attached to ensuring the sustainability of fish stocks and reiterated the commitment of their Governments to the conservation of the fish and squid stocks of the South-West Atlantic. They recommended that both Governments continue scientific research in order to achieve a greater understanding of the most significant offshore species in the area. The Commission welcomed the proposal made by the Scientific Subcommittee to further improve the early warning system by establishing a data exchange relating to fishing on the high seas for Illex. It was agreed to continue discussions with the aim of further improving this exchange. The Commission also welcomed the proposals of the Scientific Subcommittee and agreed to recommend to the Governments that a study be started on the feasibility of using data from satellites to assess the level of fishing for Illex on the high seas, with a preliminary report to be produced for the next meeting of the Scientific Subcommittee. The Commission noted the ongoing research on southern blue whiting, and that the Scientific Subcommittee had reiterated its advice on the need to keep the catches of this species within the sustainable limit of 55,000 to 59,000 tons, as recommended by the Scientific Subcommittee in previous meetings, until a new assessment was available. Given the need to maintain a precautionary approach to this important fishery, views were exchanged regarding ways of strengthening measures for the conservation of this species. The Commission agreed that the Scientific Subcommittee should consider additional measures for the conservation of southern blue whiting and provide further advice as to how sustainability might be achieved. It concurred that the timely establishment of a multilateral agreement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic. The delegations agreed on the need to exchange views intersessionally, with a view to discussing these matters further at the next meeting of the Commission.

E. Tourism

25. There has been a significant expansion of the Falkland Islands (Malvinas) tourist industry in recent years. The United Kingdom is currently the principal market, but the Falkland Islands Tourist Board, a department of the Falkland Islands Development Corporation, has focused efforts on developing new contacts with tour operators in the United States and Europe. Some 30,000 tourists are expected to be arriving in the Islands in 2001/2002 season, many of them on cruise ships. The tourism industry offers specialized holidays for those interested in wildlife and sea trout fishing. The Islands' main tourist lodges are found at Port Howard, San Carlos, Sea Lion Island and Pebble Island. There are two hotels in Stanley.

F. Transport, communications and other basic facilities

26. According to the administering Power, the road network in the Falkland Islands (Malvinas) consists of more than 35 miles of surfaced roads and more than 330 miles of unsurfaced roads. Detailed information on transport, communications and other basic facilities is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

G. Banking

27. Both British and local coinage is used, together with local currency notes. There is a parity between United Kingdom and Falkland Islands (Malvinas)

currency. The Standard Chartered Bank of the United Kingdom opened a branch in Stanley in December 1983.

H. Public works

28. The Public Works Department of the territorial Government is responsible for road-building projects, municipal services, construction projects and supplying water and electricity to the residents of Stanley. Recent projects have included an extension of Stanley Infant/Junior School and the building of a new abattoir. Road construction is ongoing, and the total length of roads is increasing by 30 miles per year.[2] In June 2001, the General Purposes Committee of the Falkland Islands (Malvinas) decided that the water and power utilities of the Islands should not be privatized.[3]

V. Social conditions

A. General

29. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms has been extended to the Falkland Islands (Malvinas) by the administering Power. Further, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under these instruments. The common law of England applies in the Falkland Islands (Malvinas) except insofar as it is inconsistent with any enactment of the law applying to the Falkland Islands (Malvinas). There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women has been applied by the United Kingdom in the Falkland Islands (Malvinas) with the agreement of the territorial Government.

B. Public health

30. The general state of health in the islands is good. Most health-care services, including the filling of prescriptions, are free to residents. All medical services in the Falkland Islands (Malvinas), are based at the King Edward VII Memorial Hospital at Stanley. Partly military until 2000, the 28-bed hospital is now fully civilianized and provides health care to both the civilian and military populations of the Falkland Islands (Malvinas). The funding of the clinical services is currently under review, but at the moment they are jointly funded by the local Government (80 per cent) and Ministry of Defence (20 per cent). The estimated expenditure for health and social services in 2000/2001 was approximately £3.8 million.

C. Social security and welfare

31. According to the administering Power, The Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and by employees between the ages of 17 and 64. Implementation of the Falkland Islands Pension Scheme Ordinance 1997 commenced during 1998. This scheme provides a national defined contribution vehicle through which employers, self-employed individuals and other individuals within the Falkland Islands (Malvinas) can make contributions under employer-employee agreements or voluntarily during their working lives and receive a pension upon retirement. A system of social welfare grants and pensions is in operation to deal with cases of hardship and disability. The social welfare budget for the financial year 1999/2000 was estimated at £688,260.

D. Education

32. According to the administering Power, education in the Falkland Islands (Malvinas) is free and compulsory for all children between the ages of 5 and 16. There is one primary school in Stanley. In the rural areas, younger children attend small settlement schools or are visited by one of the six travelling teachers for two weeks out of every six. There are also radio and telephone lessons available. The only secondary school in the Islands, Falkland Islands Community School, is located in Stanley. Children from the rural areas also attend this school and live in a boarding hostel.

Students above the age of 16 who qualify in exams are funded for studies in the United Kingdom. In 2001, there were 381 schoolchildren in the Falkland Islands (Malvinas), and four pupils were being educated in the United Kingdom.

E. Other developments

33. During the period under review, there were private contacts between the inhabitants of the Territory and continental Argentina. A Buenos Aires group that plays popular music performed in the Islands, and Patagonian entrepreneurs in the wool industry made a visit to the Islands as tourists, as did promoters for contacts between the Territory's schools and schools in continental Argentina.

VI. Participation in international organizations and arrangements

34. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the United Kingdom Overseas Territories Association. Representatives of this Government have participated, as members of the United Kingdom delegation, in discussions on matters affecting their interests, such as those leading to the 14 July 1999 joint statement.

VII. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

35. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 8th meeting, on 29 June 2001. At that meeting, the Special Committee decided to accede to the request of the delegations of Argentina, Brazil, Panama and Paraguay (on behalf of the States members of the Common Market of the South (MERCOSUR) — Argentina, Brazil, Paraguay and Uruguay — as well as Bolivia and Chile) to participate in the consideration of the item.

36. At the same meeting, in accordance with a decision taken by the Special Committee, statements were made by Conrado Etchebarne Bullrich, Richard Cockwell and John Birmingham of the Legislative Council of the Falkland Islands (Malvinas), Alejandro Belts and Argentine Congressmen Alejandro Verner and Ricardo Ancell Patterson.

37. At the same meeting, the representative of Chile introduced, on behalf of Bolivia, Cuba and Venezuela, a draft resolution on the item (A/AC.109/2001/L.8). He stated that the text was a contribution intended to bring about a solution to the dispute between Argentina and United Kingdom regarding sovereignty over the Territory. He said that his country was firmly convinced that the path of peaceful and negotiated solution was the only one to follow in the situation. He hoped that the text would be adopted by consensus. At the same meeting, following a debate on the item, the Committee adopted the resolution without a vote (A/AC.109/2001/25).

38. At the same meeting, the Minister for Foreign Affairs, International Trade and Worship of the Argentine Republic, Adalberto Rodríguez Giavarini, stated:

> "The Special Committee has been considering an issue that dates from the colonial period, the solution of which is vital to the Argentine Republic. That issue is the dispute regarding sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime spaces.
>
> "I would like to reiterate once again to the distinguished delegations here present the determination of the Argentine Government to regain those archipelagos and maritime spaces, given that they are part of the Argentine national territory. This is a standing, irrevocable objective of my country that can only be achieved through the peaceful path of diplomatic negotiations.
>
> "As stated repeatedly by the successive Governments of my country, restoring through peaceful means the full exercise of sovereignty is a national objective. It is enshrined in the Constitution of the Argentine Nation, which also

provides that the lifestyle of the inhabitants of the islands must be respected.

"The Malvinas Islands, which have been an integral part of the territory of Argentina ever since it became independent, were occupied in 1833 by British military forces, which expelled by force the Argentine population and military authorities who had settled there, preventing them from returning. In their stead, British subjects were brought to the South Atlantic to populate the islands as a colony. These acts of force, which gave rise to the question of the Malvinas Islands, have never been consented to by the Argentine Republic, which has never ceased to demand its restitution.

"The mere passage of time has not diminished the strength of Argentina's claim nor has it weakened my country's conviction that the route of diplomatic negotiations will make it possible to find a solution to this prolonged dispute. On this occasion, the Argentine Government, being fully persuaded that this is the right course, wishes to confirm once again its complete willingness to resume bilateral negotiations with the United Kingdom, in accordance with the provisions of the pertinent resolutions of this Special Committee and of the General Assembly of the United Nations, as well as the statements made on the issue by the Organization of American States."

39. Also at the Committee's 8th meeting, during the debate on the item, the representative of Indonesia stated that General Assembly resolutions had taken note of the dispute concerning the Falkland Islands (Malvinas) and had called for a settlement. Both Argentina and the United Kingdom should continue their negotiations. The representative of Paraguay, speaking on behalf of the States members of MERCOSUR as well as Bolivia and Chile, said that a settlement of the lengthy dispute in the region would be welcome to all MERCOSUR countries and that MERCOSUR had affirmed Argentina's sovereignty over the Falkland Islands (Malvinas). The representative of Brazil said that all South American countries were interested in a resolution of the dispute over the Falkland Islands (Malvinas) and that Argentina's sovereignty rights over the islands had been affirmed. The representative of Uruguay stated that the parties must resume negotiations and resolve conclusively the issues standing in the way of peace. The representative of Panama said that the need for the two parties to resume negotiations and reach a solution had been reiterated the year before at the Ibero-American Summit in Panama. The representative of China appealed to both Governments to continue their dialogue and work for an early resolution of the question. The representative of the Russian Federation stated that his country had always proceeded from the need for both Governments to conduct peaceful negotiations for the settlement of such disputes, taking into account relevant United Nations resolutions. The representative of Venezuela expressed support for the rights of Argentina in the dispute over the Falkland Islands (Malvinas), and continued to believe that the bilateral negotiations between the two Governments provided the necessary conditions for seeking a satisfactory solution. The representative of Cuba reiterated his full support for the legitimate rights of Argentina in the sovereignty dispute over the Falkland Islands (Malvinas). He regretted that despite broad support by the international community for a resumption of negotiations by the parties, the resolutions of the Committee and the Assembly on the issue had still not been implemented. The representative of the Syrian Arab Republic expressed his satisfaction with the ideas expressed by the Argentine Foreign Minister regarding his Government's readiness to engage in dialogue with the United Kingdom on the issue of sovereignty over the Territory. The representative of Ethiopia said that his country's position was clear and that the matter was a sovereignty dispute. He called on the parties to resume negotiations to achieve a peaceful solution. The representative of Bolivia said that his country's position was well known on the matter of sovereignty of the Falkland Islands (Malvinas), as reflected in the statement made on behalf of MERCOSUR as well as in his country's co-sponsorship of the draft resolution. He appealed to both Governments, particularly that of the United Kingdom, to begin negotiations on the search for a peaceful solution to the question. The representative of Grenada said that the draft resolution should be adopted by consensus.

40. At the same meeting, the representative of Antigua and Barbuda made a statement in explanation of position before a decision was taken, saying that her country welcomed the recent agreement signed by the United Kingdom and Argentina permitting, for the first time since the conflict, Argentine-matriculated planes

to fly to the Falklands (Malvinas). At the same meeting, following the adoption of the resolution, the representative of Papua New Guinea made a statement in explanation of position in which he said that the Committee must ask and answer three questions with regard to the item: what was the Committee's mandate, did the mandate include adjudication of competing sovereignty claims, and, if not, could the Committee devise a solution without dealing with the sovereignty claims? A statement in explanation of position was also made by the representative of Fiji, who asked Argentina and the United Kingdom to take the next step and devise a work programme for the Falkland Islands (Malvinas). The representative of Sierra Leone stated that the interests of the people were paramount and that the resolution should make reference to the important question of self-determination.

B. Position of the Government of Argentina

41. On 10 November 2001, during the general debate at the fifty-sixth session of the General Assembly, the President of Argentina, Fernando de la Rúa, stated the following:

> "I cannot conclude without recalling, as the General Assembly already knows, that the Argentine Republic is still engaged in a sovereignty dispute with the United Kingdom over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas. The recovery of the full exercise of sovereignty over that part of our national territory, respecting the interests of their inhabitants and international law, is a precept enshrined in our Constitution. This issue is on the agenda of this Organization, which through repeated resolutions has asked the Governments of Argentina and the United Kingdom to resume negotiations on a just and lasting solution to the sovereignty dispute and thus to put an end to a colonial situation imposed by force in 1833.
>
> "Today, in response to that request, Argentina again reiterates its full readiness to resume bilateral negotiations with the United Kingdom in order to resolve the issue, as well as its support for the mission of good offices appropriately entrusted to the Secretary-General by the General Assembly to assist the parties in achieving that goal" (A/56/PV.44, p. 22).

42. On 12 October 2001, at the 6th meeting of the Special Political and Decolonization Committee (Fourth Committee), the representative of Argentina made a statement in exercise of the right of reply to the United Kingdom, reiterating that Argentina had no doubts as to its right to sovereignty over the Falkland Islands (Malvinas), South Georgia, the South Sandwich Islands and the surrounding maritime areas, and pointed out that the General Assembly and the Special Committee on Decolonization had adopted numerous resolutions calling for a negotiated settlement of the dispute between Argentina and the United Kingdom. Argentina was ready to see such negotiations through to a successful conclusion with a view to achieving a speedy resolution of the question.

C. Position of the administering Power

43. By a letter dated 10 November 2001 (A/56/616) addressed to the President of the General Assembly, the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations transmitted the text of the written statement of the delegation of the United Kingdom of Great Britain and Northern Ireland in exercise of the right of reply to the remarks made by the President of Argentina in the general debate on 10 November 2001. The text of the statement of the delegation of the United Kingdom reads as follows:

> "The British Government welcomes the President of Argentina's resolve to continue the bilateral dialogue on the matter of the Falkland Islands, South Georgia and the South Sandwich Islands. This will undoubtedly build on the positive bilateral exchanges between our two countries to date, including meetings between Prime Minister Blair and President de la Rúa and between our Foreign Ministers, which have contributed to mutual understanding.
>
> "The Joint Statement signed between our two countries in July 1999 demonstrates clearly that the United Kingdom and Argentina can manage our differences on sovereignty while making progress on practical arrangements on matters of common interest in the South Atlantic.

"However, we wish to recall that there is nothing in the agreement that compromises the position of the United Kingdom in relation to its sovereignty over the Falkland Islands: we have no doubt about Britain's sovereignty over the Falkland Islands and the other British overseas territories in the South Atlantic.

"We have a duty to respect and defend the right to self-determination of the people of the Falkland Islands. The elected representatives of the Islanders once again expressed their views clearly when they visited the United Nations for this year's debate in the Committee of 24 on 29 June. They asked the Committee to recognize that they, like any other democratic people, should be allowed to exercise the right to self-determination. As the democratic voice of the people of the Falkland Islands, their wishes are clear: they want to remain British and do not want to be part of Argentina.

"The British Government remains committed to the joint Statement and, despite our differences with Argentina on the subject of sovereignty, we are confident that we will build on this agreement and that our relations will continue to flourish in the spirit of reconciliation, cooperation and mutual interest" (ibid., annex).

44. On 8 October 2001, at the 3rd meeting of the Special Political and Decolonization Committee (Fourth Committee), the representative of the United Kingdom made a statement in exercise of the right of reply to Chile (which had spoken on behalf of the Rio Group), Cuba and Uruguay (which had spoken on behalf of MERCOSUR), stating that her Government had no doubt about Britain's sovereignty over the Falkland Islands (Malvinas). Countries had a duty to respect the right of self-determination of the people of the Falkland Islands (Malvinas), who had made clear their wish to remain British. The elected representatives of the Islanders had expressed their views clearly when they visited the United Nations for the debate in the Special Committee on 29 June 2001.

45. The representative of the United Kingdom made another statement in exercise of the right of reply at the 6th meeting of the Fourth Committee, on 12 October 2001, reiterating that the United Kingdom's position on the sovereignty of the Falkland Islands (Malvinas) was well known and had been set out in detail in the statement made in exercise of the right of reply in response to the statements of the representatives of Chile, Cuba and Uruguay in the Fourth Committee on 8 October 2001.

D. Contributions by other Member States

46. On 8 October 2001, during the general debate on decolonization items in the Special Political and Decolonization Committee (Fourth Committee), the representative of Chile, on behalf of the States members of the Rio Group, stressed the need for Argentina and the United Kingdom to resume talks aimed at finding a peaceful, just and lasting solution to the dispute over the sovereignty of the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands (see A/C.4/56/SR.3). At the same meeting, the representative of Cuba expressed its full support for the legitimate right of the Argentine Republic in the sovereignty dispute over the islands, and considered that the dialogue and cooperation established between the parties could lead to a just, peaceful and honourable solution (ibid.). Also at that meeting, the representative of Uruguay, speaking on behalf of the MERCOSUR countries and associated States, recalling the dispute between Argentina and the United Kingdom regarding sovereignty over the Malvinas, expressed full support for the statement made by the representative of Chile on behalf of the Rio Group and reiterated the declaration on the Malvinas Islands signed by the Presidents of the States members of MERCOSUR, Bolivia and Chile, in which they had indicated their support for Argentina in that regard, and expressed the hemisphere's hope that the problem would be resolved rapidly and fairly in accordance with the resolutions of the United Nations and the Organization of American States. He also expressed surprise that the United Kingdom, which had sought peaceful and negotiated solutions in other cases in the past, had not adopted the same position with regard to the Malvinas (ibid.).

47. At the 6th meeting of the Fourth Committee, on 12 October 2001, the representative of Venezuela stated that, with respect to the question of the Malvinas, her country reaffirmed its support for the Argentine Republic's claim to sovereignty over the islands and again called on both parties to hold talks so as to arrive at a fair resolution of the dispute. The very high-level dialogue and recent cooperation between the Governments of Argentina and the United Kingdom

might create the necessary conditions for such negotiations (see A/C.4/56/SR.6). Also at the 6th meeting, the representative of Ecuador stated that Ecuador wholeheartedly endorsed the statement made by the Chilean delegation on behalf of the Rio Group concerning the Malvinas (ibid.).

E. Action by the General Assembly

48. At its 62nd plenary meeting, on 26 November 2001, the General Assembly decided to defer consideration of the item entitled "Question of the Falkland Islands (Malvinas)" and to include it in the provisional agenda of its fifty-seventh session (decision 56/410).

F. Consideration by other intergovernmental organizations and international forums

49. On 5 June 2001, the General Assembly of the Organization of American States (OAS) adopted a Declaration on the Question of the Malvinas Islands, by which it considered that the matter was of enduring hemispheric concern; welcomed the reaffirmation of the will of the Government of Argentina to continue exploring all possible avenues for peaceful settlement of the controversy and its constructive approach towards the inhabitants of the Falkland Islands (Malvinas); reaffirmed the need for the Governments of Argentina and the United Kingdom to begin negotiations as soon as possible on the sovereignty dispute, in order to find a peaceful solution to this protracted controversy; and decided to continue to examine the question of the Falkland Islands (Malvinas) at its subsequent sessions until a definitive settlement was reached thereon.

50. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) by OAS was stated in a letter dated 13 November 1995 from the Permanent Observer Mission of the United Kingdom to OAS addressed to the Chairman of the Permanent Council of OAS:

> "The position of the British Government on the question of the Falkland Islands is well known and remains unchanged. It was, for example, set out most recently by the British delegation in the United Kingdom right of reply to the statement to the United Nations General Assembly by the Argentine Minister for Foreign Affairs on 27 September. I am sure you will understand why the United Kingdom cannot accept the various resolutions and declarations adopted by the General Assembly of the Organization and referred to the preamble and operative paragraph 1 of resolution 655 (104/95). I am sure that this matter will not inhibit the fruitful cooperation on a wide range of issues which we all desire."

51. At the eleventh Ibero-American Summit, held in Lima on 24 November 2001, the Heads of State and Government of the Ibero-American countries adopted the following Declaration on the Malvinas Islands:

> "The Heads of State and Government of the Ibero-American countries, meeting in Lima, on the occasion of the eleventh Ibero-American Summit, reaffirm the need for the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume, as soon as possible, the negotiations aimed at finding an early solution to the sovereignty dispute relating to the question of the Malvinas Islands, in accordance with the provisions, objectives and resolutions of the United Nations and the Organization of American States, including the principle of territorial integrity."

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations on 22 April 2002, as well as from official documents of the Government of Argentina.

[2] www.falklands.gov.fk/focus/71-1.

[3] *Penguin News*, 6 July 2001.